13

L.R. 33 d 27.

EXTRACTS

FROM THE

BOOKS

OF THE

Mayor and *Aldermen* of *HERTFORD*;

TOGETHER WITH

Copies of Papers in their Cuſtody,

relating to the

NAVIGATION

ON THE

RIVER LEA,

BETWEEN

HERTFORD and *WARE*.

London, Printed in the Year 1734.

EXTRACTS from the Books of the Mayor *and* Aldermen *of* Hertford; *together with Copies of Papers in their Cuſtody, relating to the Navigation on the River* LEA, *between* Hertford *and* Ware.

Borough of *Hertford*

THE Survey of the Borough of *Hertford*, in the County of *Hertford*, Parcel of the Lands and Poſſeſſions of *Charles* Prince of *Wales*, *Duke* of *Cornwall*, and *York*, and *Earl* of *Cheſter*, ſometime of the Dukedom of *Lancaſter*. Taken in the Years of the Reign of our Sovereign Lord, *James*, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, &c. That is to ſay, of *England*, *France* and *Ireland*, the Nineteenth, and of *Scotland*, the Five and Fiftieth, in the Year, One Thouſand, Six Hundred, Twenty One; by *John Norden*, Deputy to Sir *Richard Smith*, *Knight*, Surveyor-General, to Prince *Charles*, by the Oath of

John Finch, Gentleman	Thomas Grenell
Robert Dawlon, Gentleman	Henry Smith
Chriſtopher Brown	George Hoppie
Thomas Smith	John Stone
Thomas Pegrem	John Daniel
John Pettele	Henry Smith, Junior
Edmond Brown	William Burges

To whom, theſe Articles following were Given, by the Surveyor, to Anſwer upon their Oaths, *viz.*

1ſt. THAT they ſhould ſet down their general Bounds of all the Manors, as alſo the particular Limitation and Extent of the Liberties of the Town; and how far do the Bounds of the Honour extend, and what Manors do hold of the ſame to your Knowledge.

2d. TO ſet down the Names of all Freeholders of the Manor, and their Lands, Rents and Tenures.

3d. TO ſet down all the Names, Lands, Tenements and Rents, of all ſuch as Claim to Hold, by Virtue of the Charter granted to the Town.

4th. WHAT Liberties, Privileges, Immunities, Franchiſes and Freedoms, are granted by the ſame Charter, and of what Value the Charter giveth Power, in Trial of Actions; and what Yearly Rent is paid by the Town to the Prince?

5th. WHAT chief Magiſtrate is conſtituted by the ſame Charter, what Aſſiſtants are thereby aſſigned him, how many in Number, and what Names of Office have they, and how far does the Authority of the chief Magiſtrate extend, by Virtue of the ſame Charter?

6th. HOW do ſuch as hold by Charter convey their Lands from one to another, by Deed or Surrender, and to whom pay they their Rents and Fines?

7th. WHETHER are there within the Liberties of the Town any Copyholders, or Cuſtomary Tenements, belonging to the Manor, or any Demeſne, or Leaſes?

8th. WHAT Demeſnes are there within or belonging to the Manor, who hath the ſame in Uſe, by what Right, and under what Rents, who Demoliſhed ſome Part of the Caſtle, when, and what Uſe was made of the Materials to your Knowledge?

9th. WHETHER any Baſtard by deſcent, Alien or Stranger born, not made Denizen, paſſes any Land within the Town or Manor?

10th. WHAT are the Cuſtomary Tenements of the Manor, there Lands and Rents, and what are the general Cuſtoms of the Manor?

11th. WHAT Commons or Waſte belong to the Town, or Manor, what Quantity are they, and whether any Rent be paid for the ſame; what Incroachments are there, or Houſes, Holders, or the like built upon any part of the Prince's Waſte?

12th. WHAT Common-Fields, or Common-Meadows belong to the Town, or Manor; and what Lands every Man holds in every Field and Furlong?

13th. WHAT Woods, or Underwoods are within the Manor, or belong to the ſame; what do they Contain, who holds them, and by what Rent?

14th. WHETHER any Freeholder within the Town or Manor, hath died without Heir General, or Special; what Land he held, if he had an Heir, what Benefit ought or can come to the King, or ſince to the Prince?

15th. WHETHER hath the Prince, within or belonging to the Town, or Manor, any Cuſtom, Mill, or there Mill; in whoſe Hands are they, for what Term, and Rent?

16th. WHETHER belong there to the Manor, any Leet, Law, Day or View of Franc Pledge, and what Hamlet do Suit unto the ſame?

17th. WHETHER hath not the Prince, or ought he not, to have all Wayves, Strays, Felons, Deodands, Fugitives, and Outlaws Goods, and Eſcheats, within the Town, and Manor; if not of the Town, neither of the Manor, and Members of the ſame; and what other Manors and Lands, do lie within this Manor, and who hath the former Caſualties happening within the ſame?

18th. WHO hath the Toll, the Profits of the Standings, Stallages, and Piccages of the Market, and Fairs of the Town; Upon what Day of the Week is the Market, and upon what Days are the Fairs, and what are the Profits of them Yearly worth?

19th. WHETHER are there any Lands, Tenements, Rents, concealed Service, or diſcontinued Tenures divided to your Knowledge?

20th. WHAT Reprizes, Payments, Fees, Annuities, Iſſue out of the Town, or Manor; to whom, and whether is there any ſuch Payments paid unto the Prince, out of any other Manor, or by any other Perſon in Right of this Manor, and by whom?

21ſt. WHAT Officers do belong unto this Manor; as Steward, Bayle, Veen, Woodward; and what are their Fees?

22d. WHAT Churches are there within this Town, and Manor, or any Chappel of Eaſe; whether is any of them propriate, or preſentative, and by whom; and whether any perſonal Tythes belong to either of them, and what are they worth by Year, and who are the preſent Incumbents, and their Ages?

23d. WHO hath the Fiſhing of the Rivers, within the Town and Manor, how do they hold the ſame: and who hath the Free-Warren, as Hawking, Hunting, and

Fowling, within the Manor, and by what Right?

24th. WHETHER hath the Prince, or may he have any Game of Swans, within the Rivers, and Waters; and who are they that keep Swans within the ſame?

25th. WHETHER there is any Cuſtomary, or Tenements by Leaſe fallen down, ruinated, or decayed; or any Waſte committed, or any other Waſte upon his Houſes, Woods, or Timbers?

26th. IF there be any other Things, in your Opinions fit to be preſented; that you likewiſe remember it?

27th. WHETHER is there any School within the Town; who built it, and what Indowment of Land, or other Revenues hath it, and what Fee hath the Maſter, and what the Uſher?

Purpreſture, To the 11th Article it is preſented as follows.

THAT *Thomas Fanſhaw, Eſq*; now deceaſed, hath ſtopt and dammed up the Head of *Black-Ditch*, and taken away a Part of the Water of *Lea*, and the *Turnpike*; the which Water was wont to run, between a Mead of the ſaid Mr. *Thomas Fanſhaw* the elder, now deceaſed, upon the North Side, and *Lock-Mead*, upon the South Side, of the aforeſaid *Lock-Mead*, it being a Part of the Common to *Hertford*; to the great Annoyance and Hindrance of the Paſſage of the Barges, from *London* to *Hertford*, and from *Hertford* to *London*, with divers Commodities, and that the ſame Annoyance is continued by the Lady *Fanſhaw*, that now is.

An Iſland encroached. THE aforeſaid *Thomas Fanſhaw, Eſq*; for taking in one Iſland, a little diſtant from the North-Weſt Side, of a Common-Meadow, called *Balls-Hook*; the ſaid Iſland being Five Poles in Length, and Two Poles in Breadth, more or leſs; which Iſland belongeth of Right to the Prince.

Lib. Fol.

A 99. *December* the 27th, 1611. Six Shillings and Eight Pence, Paid for Fatning of Swans.

C 25. *February* the 15th, 1631. Paid at Eating Sir *Thomas Fanſhaw's* Veniſon, One Pound, and for Cutting of the River.

43. PAID Bargemen, for bringing home the Deal Boards, Twelve Shillings.

45. 1633, Paid for Cutting the Weeds, Two Shillings, and Eight Pence.

61. 1634, *June* the 18th. Paid *John Taylor*, for Cutting the Weeds againſt old *Hormed* and the *Hoppets*, Five Shillings.

83. 1635, *December* the 2d. Ordered, That *Daniel How*, ſhould make good the Breach upon *Hartham-Bank*, and pay the Expences of it; and Ordered that the Banks of *Hartham*, ſhould be maintained by a Rate, to be laid upon ſuch Houſes as have a Right to Common.

85. 1635, Paid *Andrews* and Three Labourers, for Five Days Work on *Hartham-Bank*, Nineteen Shillings.

89. 1635, For carrying Piles to *King's-Mead* River, Two Shillings and Eight Pence; and Paid for a Load of Buſhes and Carriage to *King's-Mead*, Ten Shillings.

111. ORDERED, That the Town Clerk ſhould enter into the Great Book, the Order and Petitions of Sewers, mentioned in his Demands which he promiſed to perform, 1636.

163. 1638, For Mowing the River in *King's-Mead*, Four Shillings and Ten Pence;

Paid

Lib. Fol.

C 163. Paid for a Hook to cut the River, Two Shillings and Six Pence; Paid *Norris* for Landing the River at *Hartham*, Two Shillings and Six Pence; To *Dawſon* and *Simons*, for ſcouring *Hartham* and cutting the River, Eleven Shillings and Two Pence.

205. Paid for Two Loads of Buſhes, laid into the River, at the Warehouſe, Eight Shillings.

236. 1642, Paid *Thomas Ebbs*, for cutting the Weeds in *Hartham* River, Five Shillings.

295. 21ſt of *October*, 1646. Ordered, that Captain *Oliver Butler*, be ſpoken to about making a *Turnpike*.

310. Paid for mending the Banks in *King's-Mead*, 4 Pence; Paid cutting *Hartham* River.

317. 10th of *February*, 1646. At this Court many of the Poor Inhabitants came, and did importune the *Mayor* and *Burgeſſes*, that the Paſſage by Water from *Hertford* to *Ware*, might be laid open, for Boats to carry and recarry Commodities, for the Benefit of the Inhabitants of *Hertford*, according as it formerly had been. Ordered they ſhould receive a full Anſwer at the next Court.

318. Ordered, That for the better preſerving the Banks in *Hartham*, that are now made up by *Ebbs*, that he, keeping and maintaining the ſaid Banks in good Repair for Seven Years, ſhall have Sixteen Shillings a Year.

326. 2d of *June* 1647. Ordered, That the Bargain made by Mr. *Mayor* with *Ebbs*, for cutting of the Weeds, be performed; and the Monies bargained for doing the ſame be paid unto him, which is Eight Shillings from the further Bridge, in *Balls-Hook*, to *Lock-Mead* Bridge: and that it be preſented to the Jury of Sewers, at the Commiſſioners next Sitting.

327. Ordered, That the Head of the Stream, running down the *Stant-Ditch*, be Stopped up forthwith, for it gulls and wears away the Ground in *King's-Mead*, and drowns the Graſs.

334. 31ſt of *Auguſt*, 1647. Ordered, that Mr. *Lawrence* and Captain *Gardiner*, ſhould Treat with *Henry Gardiner*, *Eſq*; and Mr. *Heath*, to ſee what they would contribute, to the filling up of *Ditch*; and that if they did refuſe, then to ſee if they would give leave that it might be filled up at the Town Charge.

336. Ordered, *Ebbs* ſhall be ſent for, at the next Meeting, to be Agreed with about the cutting of the River.

342. } Several Articles in the *Mayor's* Accounts, relating to the River.
343. }

351. 1648. Agreement made with *Ebbs*, at Thirty Shillings a Year, to cut the Weeds in the River, from *High-Bridge*, to the lower End of *Hartham*, &c. as often as ſhould be neceſſary; and likewiſe to keep up the Drains and Banks, in *Hartham*.

385. 1649. Paid *George Ebbs*, for cutting the Weeds in the River, One Pound, Ten Shillings; Paid *Ebbs*, for ſcouring the Ditches and mending the Banks, Three Shillings; more for cutting Weeds, Seven Shillings.

415. } Several Articles about the River, 1651.
416. }

426. Paid *Ebbs*, for cutting the River.

D 4. 27th of *February*, 1655. Whereas the Jury, on the 5th Day of *September*, 1655, preſented to the Commiſſioners of Sewers, That the River *Lea*, from *Hertford* to *Ware*, was Navigable for Boats and Barges, and that the ſaid Commiſſioners Ordered, That the ſaid River ſhould be cleanſed, and ſcoured, and made Navi-

Lib. Fol.

D. 4. Navigable by the Landholders, on each Side of the River. And Whereas there was a Rate, made the 12th Day of *October*, 1655, by the Mayor, Burgeſſes, and Inhabitants of the Borough of *Hertford*, towards the cleaning, ſcouring, and making Navigable ſo much of the River *Lea*, as concerns the Borough of *Hertford*, And Whereas the Commiſſioners for Sewers, the 23d Day of *October*, 1655, confirmed the ſaid Rate, for the Purpoſes aforeſaid, At a Months Court holden the 31ſt Day *January*, 1655. It was agreed, concluded, and Ordered, as followeth; That *Joſeph Dalton*, Mayor, *Iſaac Puller*, *Eſq*; *Thomas Hawes*, *Eſq*; Captain *William Minors*, *Edward Lawrence*, Sen. *William Gardiner*, *John Clarke*, and *Joſeph Bunker*, Gent. *Adler Bowd*, *John King*, Grocer, *John Pritchard*, or any Five of them, ſhall in Behalf of the Borough, take care to ſet Men on Work, to make the River Navigable for Boats and Barges, to come up, and to pay them out of the Money that is collected for that Purpoſe.

5. 17th of *March*, 1655. *William Burges* affirmed, That the Navigation for Boats and Barges, did pas on *Hartham* Side, between the Iſland and *Hartham*, and that the Side next unto the *Hoppets* was but a Ditch, which he hath often ſtepped over. And Mr. *Lawrence*, Sen. did affirm, That there was no Paſſage for Boats and Barges, between the *Hoppets* and the Iſland.

8. 18th of *June*, 1656. Ordered, That Timber ſhould be in a Readineſs to make a *Turnpike*: and Orders are given to the *Serjeant*, to call a General Meeting of the Town, to conſult about raiſing Money for defraying the Charges of *Turnpike*

9. 25th of *June*, 1656. At a General Meeting of the Mayor, and Chief Burgeſſes, and Aſſiſtants, and other Inhabitants of the Borough, It was thought neceſſary, That a *Turnpike* ſhould be erected, on the River *Lea*, for the better bringing up of Barges, for the Uſe of the Inhabitants; and that Twenty Pounds, ſhould be borrowed for the Uſes aforeſaid; and that the Mayor, and Chief Burgeſſes, ſhould engage for the Repayment thereof.

14. *William Green*, Miller, of *Dicker-Mill*, Ordered to remove ſome Obſtructions.

19. Ordered, to borrow Thirty Pounds, for Payment of Work about the *Turnpike*.

22. 1657. Concerning the conveying of Water, to *Dicker-Mill*.

29. 16th of *June*, 1658. An Allowance of Forty Shillings, to *William Green*, the Miller, of *Dicker-Mill*, towards making up the Breach at the Middle *Turnpike*, and the ſaid *William*, to Maintain it in Repair. An Order, for the Mayor, to Hire Carts, for the Carriage of Sir *Thomas Fanſhaw*'s Timber, from *Brickendon* to *Ware*, for Building Locks at *Ware-Mill*, and pay for the Carriage.

30. 9th of *September*, 1658. Ordered, That *Downs* go to Mr. *Turner*, for a Copy of the Writing, between Sir *Thomas Fanſhaw* and the Town, concerning the Water.

43. 2d of *April*, 1660. Upon the Petition of the Inhabitants, ſetting forth That the Navigation was likely to become ruinous, unleſs Care was taken of the *Turnpikes*, and the Banks of the River; It was Ordered, That all Foreign Barges, that ſhould at any time come up within either of the *Turnpikes*, for each Time, ſhould pay One Shilling; and every Inhabitant to pay Six Pence, for Three Years: That *Thomas Pryor*, be Authorized to Receive the ſaid Money; and Ten Shillings a Year, payable from *Dicker-Mill*, for the Repair of the ſaid *Turnpikes*, and the River, from the upper End of Little *Hartham*, towards the Mill Bridge, to the lower End of Great *Hartham*. Proviſo That Sir *Thomas Fanſhaw*, having been

Lib. Fol.

D. 43. been at great Charges for the Uſe of his Mills, ſhould pay Nothing.

63. 1663. *Harvey* to take care of the *Turnpikes*, and receive the Salary. Upon a Complaint of the cutting up the *Turnpike*, an expreſs Meſſenger is diſpatched to the Steward. Ordered, That the lower *Turnpike* ſhould be ſet up again, for the then preſent Supply of the Navigation. *Edward Harvey* to take a Leaſe of the *Turnpike*, for Three Years.

94. 11th of *October*, 1669. Ordered, Sir *Thomas Byde* being preſent, and offerring to Seal and deliver the Articles of Agreement, to the Mayor and Burgeſſes, concerning the Navigation to *Hertford*, and Paſſage for Boats and Barges thro' his Lock, at *Ware*, that it ſhould be accepted of, and the Counterpart thereof, Sealed by the Corporation Seal, Subſcribed with all the Burgeſſes Hands, and delivered to Sir *Thomas*: which was accordingly done on both Sides.

A true Copy of the ſaid Articles as follows, *viz.*

ARTICLES of Agreement, Indented and made Between Sir Thomas Byde, *of* Ware-Park, *in the County of* Hertford, Knight, *of the one Part, and the Mayor and Burgeſſes, and Comonalty of the Borough of* Hertford, *in the ſaid County of* Hertford, *of the other Part; the Eleventh Day of* October, *in the One and Twentieth Year of the Reign, of our Sovereign Lord King* Charles *the Second.* Anno Domini, 1669.

WHEREAS the rightful Navigation, for all Barges paſſing and riding from *Hertford* aforeſaid, to *Ware*, and ſo to *London*, as alſo from *London* to *Ware*, and from thence to *Hertford*, hath been adjudged formerly by Commiſſioners of Sewers, to be thro' a Place call'd *Maniſold-Ditch*, lying between *Hertford* and *Ware* aforeſaid, inſtead of *Black-Ditch*, the Antient Stream and Paſſage formerly ſtopt up, by the Lord *Fanſhaw*, deceas'd, then Owner of *Ware-Park*, And Whereas the ſaid Lord *Fanſhaw*, for his better Supply of Water, to his Mills at *Ware* aforeſaid, And the ſaid Mayor, Burgeſſes, and Comonalty of *Hertford*, for their better Paſſage with their Boats and Barges, from *Hertford* to *Ware*, and ſo to *London*, and alſo from *London* to *Ware*, and from thence to *Hertford* aforeſaid, did Agree together, That the ſaid Lord *Fanſhaw*, ſhould make a *Lock* or *Turnpike*, out of the Mill Stream, at *Ware* aforeſaid, into the Main Stream there, and that the ſaid Lord *Fanſhaw*'s Miller, or his Agents there, ſhould always be in a Readineſs to Open the Gates of the ſaid *Lock*, or *Turnpike*, to let all Barges in and out, paſſing or deſiring to paſs and repaſs from *Hertford* aforeſaid, and ſufficiently ſupply them with Water, from his Mill at *Ware* aforeſaid, to carry them off to *Ware-Bridge*, and alſo to bring them back again, to the ſaid Lock, and ſo to *Hertford* aforeſaid (the Bargemen paying Six Pence a Barge, paſſing and repaſſing,) and the ſaid Town of *Hertford*, to ſtop up *Manifold-Ditch* which was performed on either Side, untill the ſaid Lock fell to Ruin and Decay, And Whereas the ſaid *Lock*, or *Turnpike*, hath of late been out of Repair, ſo that Barges could not paſs or repaſs that Way, and it has now pleaſed the ſaid Sir *Thomas Byde*, now Owner of *Ware-Park*, and the *Mills*, *Lock*, and *Turnpike*, and other Things which were formerly the Eſtate, of and belonging to the ſaid Lord *Fanſhaw*, upon Treaty with the ſaid Mayor, Burgeſſes, and Comonalty of *Hertford*, for the better Correſpondency each with the other, and Accommodation of each to the other, to Repair the ſaid *Lock*, or *Turnpike*, to the

Lib. Fol.

D. 94. to the Intent that the ſaid Barges paſſing from *Ware* to *Hertford*, and ſo from *Hertford* to *Ware*, and ſo to *London*, may ride and paſs thro' the ſaid *Lock*, or *Turnpike*, as they formerly did in the ſaid Lord *Fanſhaw*'s Time, It is now therefore mutually Covenanted and Agreed, between the ſaid Parties, to theſe Preſents, and the ſaid Sir *Thomas Byde*, for him and his Heirs, doth Covenant and Agree, to, and with the ſaid Mayor, Burgeſſes, and Comonalty of the ſaid Borough of *Hertford*, and the ſaid Mayor, Burgeſſes and Comonalty of the ſaid Borough of *Hertford*, do for them and their Succeſſors, reciprocally Covenant, and Agree, to, and with the ſaid Sir *Thomas Byde*, his Heirs and Aſſigns, in Mannor following, (that is to ſay) *Imprimis*. The ſaid Sir *Thomas Byde*, doth hereby Covenant and Agree, to, and with the ſaid Mayor, Burgeſſes, and Comonalty, of *Hertford*, to permit and ſuffer all Barges whatſoever, deſiring to paſs from *Ware* to *Hertford*, and ſo from *Hertford* to *Ware*, and ſo to *London*, to paſs and ride thro' the ſaid *Lock* and *Turnpike*, of him the ſaid Sir *Thomas Byde*, at *Ware* aforeſaid, and ſo to afford, or cauſe to be given, and afforded to every of the ſaid Barges, paſſing, or deſiring to paſs thro' the ſaid *Lock*, Sufficiency of Water, from his ſaid Mills at *Ware* aforeſaid, by ſhutting down his Mill Gates, and drawing them up again to carry them off to *Ware-Bridge*, and to bring them back again (when deſired) to the ſaid *Lock*, and thro' the ſame to *Hertford*, and back again from *Hertford* aforeſaid; ſo as they may freely paſs and repaſs into and thro' the ſaid *Lock*, and *Turnpike*, at the Will and Pleaſure of the ſaid Bargemen, and Workers in the ſaid Barges. *Item.* The ſaid Mayor, Burgeſſes, and Comonalty, do hereby likewiſe Covenant, to, and Agree with the ſaid Sir *Thomas Byde*, to pay for every loaded Barge, paſſing and repaſſing thro' the ſaid *Lock*, or *Turnpike*, the Sum of Twelve Pence, of lawful Money, to ſuch Officer, or Agent, as the ſaid Sir *Thomas Byde*, ſhall Appoint. *Item.* The ſaid Mayor, Burgeſſes, and Comonalty, do further Covenant, to, and with the ſaid Sir *Thomas Byde*, to keep the ſaid *Manifold-Ditch* ſtopt up, (according to a former Order of Commiſſioners of Sewers) to ſuch a Height, as may be ſufficient to ſupply the Mill with Water, ſo long as the ſaid Sir *Thomas Byde*, is pleaſed to keep the ſaid *Lock* or *Turnpike* in Repair, and give the ſaid Barges Paſſage thro', according to the Articles aforeſaid; ſo that thereby the Mills of the ſaid Sir *Thomas Byde*, may the better be ſupplyed with Water. *In Witneſs* whereof, the ſaid Mayor, Burgeſſes, and Comonalty, have ſet their common Seal; and the ſaid Sir *Thomas Byde*, hath ſet his Hand and Seal, the Day and Year above-ſaid.

Sealed, and delivered,
in the Preſence of *Thomas Burges*,
Richard Mainwarring,
Andrew Cole.

Thomas *Byde.*

113. 8th of *January*, 1672. Ordered, A Leaſe be made to Sir *Thomas Byde*, for 21 Years, of the Royalty of Fiſhing in the Common Waters, at the Yearly Rent of Six Shillings and Eight Pence, with Liberty for the Corporation to Fiſh once a Year, in *Auguſt*, Sir *Thomas* to Covenant, Not to obſtruct the Navigation, and to cut the Weeds in the River, that they do not prejudice the adjacent Meads; with Liberty for the Mayor, and Burgeſſes, and thoſe they give Leave, to Fiſh with Angles.

123. 1ſt of *April*, 1674. Ordered, That a Leaſe be made to Mr. *Henry Chauncy*, of the Royalty and Liberty of Fiſhing in the Common Waters and Rivers, belonging to

Lib. Fol.

D. 123. to the Corporation for 21 Years, under the Rent of Ten Shillings Yearly; with a Grant of Liberty to keep Swans in the Common Waters and Rivers, during the ſaid Term.

126. At a Months Court, held the 22d of *July*, 1674, Came *Nicholas Lucas*, and made his Complaint againſt *Thomas Harle*, the Miller of *Ware-Mills*, for that the ſaid *Thomas* hath Exacted and Taken of him the Sum of Two Shillings and Six Pence, for the paſſage of One Barge from *Ware* to *Hertford*; which this Court hath Taken into ſerious Conſideration, and for Redemy thereof in future Times, in Regard the ſame is a great Exaction, and more than really the ſaid *Thomas* ought to have taken; This Court doth Agree, That Mr. *Clarke*, and Mr. *Gardiner*, two of the Chief Burgeſſes, ſhall attend Sir *Thomas Byde* therein, to the End that Remedy may be had according to Law.

140. 1675. Several Perſons Ordered to Account for what they Received, for Repair of the *Turnpikes*.

142. 1675. *Richard Martin*, and *John Matthews*, the Miller, to take care of the Repairs of the *Turnpikes*, and of the Banks of the River, and Navigation for a Year; and for that Purpoſe to Take One Shilling, for the paſſage of every Barge.

147. 28 of *June*, 1676. On Complaint made, That ſeveral Perſons belonging to the *New River*, did in the Night Time, pull up the Piles, or Stakes, at *Manifold-Ditch*, whereby the Water Runs out, and the Navigation is prejudiced; Ordered, That the Names of ſuch Perſons be got, and that Indictments be preferred againſt them, at the next Seſſions for the County.

147. 30th of *June*, 1676. Whereas ſeveral Complaints have been made to the Mayor, and Chief Burgeſſes of this Borough, by the Maſters, and their Servants, of divers Barges, belonging to this Borough, That *Francis Pryor*, of *Ware*, Miller, hath refuſed to give them any Flaſhes of Water, for the paſſage and conveyance of their Barges, by his Mill, to, and from *Hertford* to *Ware*; by reaſon whereof the ſaid Barges have lain on Ground, for want of Water, ſeveral Hours together, until ſuch Times as the Maſters of the ſaid Barges, did purchaſe their paſſage, of the ſaid *Pryor*, at extravagant Rates; and that the ſaid *Pryor* declared, That the ſaid Sir *Thomas Byde*, had given him Orders that he ſhould ſuffer no Barges belonging to this Corporation, to paſs that way, 'till the Piles at *Manifold-Ditch* were ſet up; adding withal, that if there had been none other but *Hertford* Barges there, they ſhould not have paſſed by, and if they did get up to *Hertford*, they ſhould not Return again: and Mr. Mayor declared in open Court, that *Pryor* had informed him, That he had received Order from Sir *Thomas Byde*, for the ſame, And this Court taking the Premiſſes into Conſideration do unanimouſly declare, That the Order given by Sir *Thomas Byde*, and the Exaction of Money, for the paſſage of the ſaid Barges, is a Violation and Breach of the Promiſe and Agreement, made by the ſaid Sir *Thomas Byde*, with the Mayor and Burgeſſes of this Borough, touching the free paſſage of the ſeveral Barges, belonging to this Borough, and tends very much to the Obſtruction, and Hindrence of the Trade of this Town, with the City of *London*. It is therefore Ordered, by this Court, That if the ſaid Sir *Thomas Byde*, and *Francis Pryor*, or One of them, do not within the ſpace of Fourteen Days, next after the delivery of a Copy of this Order, at the Houſe of Sir *Thomas Byde*, at *Ware-Park*, anſwer the Damages the ſeveral Bargemen aforeſaid, have ſuſtained, by Reaſon of the ſtop made of the ſaid Barges, and the Exaction of Money made for their paſſage, and if the ſaid Sir *Thomas Byde*, do not Seal and deliver a ſufficient Aſſurance, in Writing, that all and ſingular the Barges, belonging to the Freemen

and

Lib. Fol.

D. 147. and Inhabitants of this Borough, ſhall have free paſſage thro' his Water, by his ſaid Mill, without the Payment of any Toll, or Exaction whatſoever, purſuant to his late Promiſe and Agreement, with Covenants to allow Flaſhes, and Maintain the Sluices in ſufficient Repair, at his own proper Coſts and Charges, for the more commodious paſſage, and repaſſage of the ſaid Barges, That then a Committee ſhould be choſen at the next Months Court, to treat with the Governour and Company, of the *New River*, to open the Antient Way, thro' *Black-Ditch*, or *Manifold-Ditch*, to the Intent to turn the Stream into the Old and Antient Channel; that thereby all Boats and Barges, may have a more free paſſage, from *Hertford* and *Ware*, and a Recourſe back again, for the Encouragement of the Trade and Commerſe of this Borough. And it is further Ordered, That one of the *Serjeants*, ſhall forthwith leave a Copy of this Order, at Sir *Thomas Byde*'s Houſe, at *Ware-Park*.

148. 19th of *July*, 1676. Ordered, Mr. *Edmonds*, and Mr. *Lawrence*, ſhall treat with Sir *Thomas Byde*, touching the Settlement of the Navigation, and free paſſage for Boats and Barges from *Hertford* to *Ware-Bridge*, and back again; and the ſtopping up *Manifold-Ditch*.

148. 26th of *July*, 1676. Upon Conſideration had by the Mayor and Chief Burgeſſes, in common Council, concerning the Propoſals made by Sir *Thomas Byde*, for the Settlement of their Navigation.

Reſolved Nemine Contradicente;

Firſt. That the Propoſals made by Sir *Thomas Byde*, that he would Settle the Navigation (according to the Articles formerly made between Lord *Fanſhaw* and the Company) upon the Mayor and Burgeſſes, and their Succeſſors, and allowing Flaſhes to Convey the Barges from the *Lock*, to *Ware-Bridge*, and from *Ware-Bridge*, thro' the *Lock* back again, be Agreed and Confirmed.

Secondly. Reſolved, Upon the Queſtion, that the ſame be Settled by Indenture, Between Sir *Thomas Byde*, and the Mayor and Burgeſſes, according to the ſaid Agreement; and that the Agreement be Confirmed by Order of Commiſſioners of Sewers, and decreed as Sir *Thomas Byde* has been pleaſed to propoſe.

Thirdly. Reſolved, Upon the Queſtion, That *Manifold-Ditch* be ſtopt up, according to the Order made by the Commiſſioners of Sewers, and that the ſame Order, or ſuch other Order, as Sir *Thomas Byde* and the Company can procure, for the better Advantage of the Mills and Navigation, be decreed; and that the Company ſhall grant full Authority to Sir *Thomas Byde*, or his Servants, to Maintain the ſame at their Pleaſure.

150. 25th of *October*, 1676. *Richard Martin*, Accounts for the Profit of the *Turnpike*,

151. 3d of *January*, 1676. Some Perſons having expended ſmall Sums for the Repair of the *Turnpike*, are Ordered to be reimburſed out of the Aſſize Rates.

167. 23d of *April*, 1679. *John Matthews*, Accounts for the Profits of the *Turnpike*; *Thomas Webb*, is choſen Receiver of the Duty laid on Barges, and *Richard Martin*, *Henry Stout*, *Nicholas Lucas*, Mr. *Jones*, Mr. *Thomas*, and Mr. *Lawrence*, are choſen Surveyors of the Rivers and *Turnpikes*, and of the Repairs thereof.

169. 21ſt of *May*, 1679. Small Sums of Money are Ordered for the Repairs of the *Turnpike*, and the River Banks.

Lib. Fol.

D. 179. *Benjamin Jones*, *Richard Martin*, *Nicholas Lucas* and *William Guiſe*, appointed Surveyors of the Navigation, and Receivers of the Money ſubſcribed for the Improvement thereof; 8th of *September*, 1680.

184. 23d of *March*, 1680. *Jones* and *Martin*, appointed Overſeers of the River and Navigation.

B. 43. 31ſt of *March*, 1686. Ordered, That a Letter be wrote to Sir *Thomas Byde*, about the Navigation; to acquaint him, That this Town is prejudiced for want of paſſage, by his Stream of Water; and to deſire him that it may be remeded; and that ſthe Town doth Maintain their *Turnpike*, and perform what they ought to do on their Parts.

95. 29th of *May*, 1689. *Francis Pryor*, of *Ware*, Requeſts that he might cut the Weeds at his own Coſt, in the common River, from to which the Company granted.

103. 18th of *September*, 1689. The common Water lett to *Edward* and *George Harvey*, for a Year.

106. 13th of *November*, 1689. *Thomas Smith*, of *Dicker-Mill*, paid Fifty Shillings, for Five Years Rent, of the Upper *Turnpike*.

172. 27th of *November*, 1693. Ordered, That Mr. *Jones*, *Trott*, *Calton*, *Hurrall*, and *Squire*, View the Ditches in *Hartham* and *King*'s-*Meads*, and the Banks thereof, and the *Turnpikes*; and Report what is neceſſary, to Repair the ſame, and Order the ſame to be done.

194. 27th of *February*, 1694. Order to Repair the two *Turnpikes*.

233. 15th of *September*, 1697. *Thomas Webb*, offered to pay Two Pounds *per* Annum, for the Fiſhery.

235. 3d of *November*, 1697. About Letting the *Turnpike*.

389. 5th of *March*, 1706. At a Months Court held this Day, It is Ordered, *viz.* Upon Complaint of Mr. *Stout*, Mr. *Benjamin Fairman*, and others of *Hertford*, and *Thomas Hulls*, and *James Hulls*, two Bargemen of *Ware*, That Mr. *Byde*, of *Ware-Park*, demands One Shilling a Barge, that comes thro' his Ciſtern; Ordered that Mr. *Willimott* the Town-Clerk, do go to the ſaid Mr. *Byde*, and acquaint him, That if he does not forbear taking any Money for the ſame, that the Town of *Hertford* will open the Old Stream, of *Black* and *Manifold-Ditches*.

23d of *April*, 1706. At this Court, Mr. *Willimott* Reported his Errand to Mr. *Byde*, on which he went by Order of the laſt Court, *viz.* That Mr. *Byde* would give the Mayor and Aldermen a Meeting, concerning the ſaid Meſſage.

Copy of Mr. Byde's *Letter*, *to* Mr. John Dimſdale Jun. *Mayor of* Hertford; *Anno* 1707.

SIR,

I have been ſo hurried with Buſineſs, ſince you did me the Favour to Meet me at *Hertford*, that I have not really had Time to give you an Anſwer before. I am under ſome dificulty in this Matter; for I find my Lord *Fanſhaw*'s Agreement was, to Receive Six Pence for every loaded Barge, and when my Grandfather came here, the Town thought themſelves ſo well Uſed by that Agreement, that they entreated him to Renew it; but they deal with me after another Manner, for they are neither willing to reckon it a Civility done, them to paſs free, nor to ſtand by their Agreement, and pay Six

Lib. Fol.
B. 389. Pence a Barge, for I Remember your Father was pleaſed to ſay with ſome Warmth, That the Matter was very ſhort; *viz.* Whether I wou'd let their Barges come without paying, or not, Which I muſt confeſs, was a ſhorter Way of arguing than I expected. I am ſenſible that 'tis an Advantage to my Mills to have the two Ditches ſtopt, and I believe 'tis alſo better for the Barges to go that Way; for I am ſure 'twou'd be ſome Trouble, and a good Expence, to make the Old Way Navigable; and tho' 'tis ſaid, The Bargemen wou'd undertake to do that, I fancy they would make the Perſons that employ them, repay it, one way or other; and perhaps 'twou'd not now be ſo eaſily made Navigable, as ſome think. As I remember, 'twas told me at *Hertford*, That my Miller with his Boat was Suffered to paſs free, thro' the *Locks* at *Hertford*, in Conſideration of the other Barges going free at the Mill; But ſince then, I have rightly informed my ſelf in that Matter, and find, That they granted that Liberty to the Miller, as an Encouragement to him, to keep their Market, thoſe Mills being at that Time, thought of Uſe to the Trade of *Hertford*. There was a Gentleman amongſt you, endeavoured to ſatisfy me, that the Barges going free, was no manner of favour, to the Corporation of *Hertford*, tho' by their being ſo Zealous in the Matter, I am apt to think that Body is of another Mind; but ſince we are now to make a New Agreement, if you think fit to Agree, that my Miller's Boat ſhall go free at *Hertford*, as long as I let the other Barges go free, and alſo that *Manifold* and *Black-Ditch* ſhall be kept ſtopt up, and if they are at any Time broke open, to be immediately ſtopt up, or Ten Shillings a Day paid till they are ſtopt up, on theſe Terms the Barges ſhall go free, only paying one Day in a Year, to keep up my Right. And I hope you, and the reſt of the Gentlemen, will think this deſerves Thanks; for I aſſure you, what moſt moves me to it is, that I am unwilling to do any Thing that may hinder Trade, which I take to be a Publick Good, tho' for ever ſo little a Time: and I am ſure 'twould be a great while, before they could make that Stream Navigable. there are If any of the Gentlemen make a Scruple of Thanking me, I ſhall be very glad to Accept of Six Pence a Barge, without Thanks; and therefore I leave it to your Conſideration, and ſhall be always glad of any Opportunity, of ſhewing how much I am

SIR,

11th of *May*, 1707.

Your moſt humble Servant,

THOMAS BYDE.

Coppies taken out of the Council Book, *at the* Cock Pit, White Hall.

At the Court, at *White-Hall*, the 4th of *May*, 1666.

PRESENT,

Lord Chancellor, *Lord* Viſcount Fitzharding, *Lord* Arlington,
Earl of Craven, *Lord* Biſhop of *London*, *Mr.* Secretary Morrice,

WHEREAS it was this Day, repreſented to this Board, by the humble Petition of *William Adams*, *John Wood*, *Joſeph Ainger*, *John Hilliard*, and other Barge-maſters, upon the River of LEA, That the Owners and Proprietors of ſeveral *Locks* and *Wears*, upon the ſaid River, between the Town of *Ware*, and *London*, have lately made ſeveral unreaſonable demands, very diſproportionate to what hath been cuſtomary heretofore to receive, and particularly *Thomas Worrill*, of *Tottenham-Mills*, who formerly had Nothing, but hath of late cut a Sluice, to draw the Water ſo low, that at preſent, he hath thereby kept Twenty Barges on Ground, for fourteen Days laſt paſt, and will let no Barge paſs without paying of Five Shillings, and ſome Ten Shillings, of purpoſe to have all Goods landed at his Wharf, and from thence carted to *London*. Alſo *Samuel Goodwin*, *Jonathan Ward*, *John Page*, *John Harlow*, *William Beacham*, *John Martin*, and *William Munt*, they ſeverally exact four Times what they heretofore demanded; And *Edward Clayton*, at *Waltham Turnpike*, who formerly had but Four Pence, now demands Five Shillings, to the Prejudice of Trade, and Damage of the Petitioners, and praying Relief againſt theſe unreaſonable exactions; It was this Day Ordered by their Lordſhip's; That as well the Petitioners, as *Thomas Worrill*, of *Tottenham Mills*, *Samuel Goodwin*, *Jonathan Ward*, *John Page*, and *Edward Clayton*, of *Waltham Turnpike* aforeſaid, do perſonally appear and attend this Board, on *Friday*, the 18th of *May*, inſtant, to anſwer ſuch Things as are complained of, or ſhall be objected againſt them. Whereof neither they nor any of them may Fail at their Perils.

At the Court, at *White-Hall*, the 18th of *May* 1666.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in* COUNCIL.

WHEREAS Complaint hath been made to this Board, That the Owners and Proprietors of ſeveral *Locks* and *Wares*, upon the River of LEA, between the Town of *Ware* and *London*, have lately made unreaſonable demands, much diſproportionate to former Cuſtom. And that *Thomas Worrill*, of *Tottenham Mills* (to whom formerly nothing was payable) hath lately cut a Sluice, to draw the Water ſo low, that he hath kept Twenty Barges on Ground for Fourteen Days, and would not let them paſs without paying Five Shillings, and ſome Ten Shillings, of purpoſe to have all Goods

Goods landed at his Wharf, and from thence carted to *London*. And that *Samuel Goodwin*, *Jonathan Ward*, *John Page*, *John Harlow*, *William Beacham*, *John Martin* and *William Hunt*, demand four Times more than heretofore was paid, and *Edward Clayton*, at *Waltham Turnpike*, who formerly Received but Four Pence, now demands Five Shillings, which this Board conceived to be unreaſonable, and by Order of the 4th of *May*, inſtant, were ſummoned to attend the Board this Day. Upon hearing of what was ſuggeſted by the Complainants, and alledged by the Defendants and Council learned on both Sides, it was Ordered (his MAJESTY preſent in Council) That his MAJESTIES Commiſſioners for Sewers, in the ſeveral Counties of *Eſſex*, *Middleſex* and *Hertford*, do forthwith meet at ſuch convenient Times and Places as they ſhall appoint, and do examine and redreſs the Abuſes complained of, according to Law; and that at fartheſt they do meet in *Whitſun* Week, and diſpoſe and order their Proceedings in the moſt ſpeedy and beſt Ways they can; and ſettle ſuch Rates to be paid and received, as they conceive ſhall be agreeable to Juſtice and Equity: and for their better Inſtruction, the Petition and Papers remaining before this Board, are herewith tranſmitted unto them. And it is alſo Ordered, That until the Rates in Queſtion ſhall be ſettled, the Proprietors of all *Locks* and *Wears*, upon the ſaid River of LEA, upon demand of the reſpective Bargemaſters, requiring the ſame, do afford them competent Water, at ſuch Rates as antiently moſt commonly have been accuſtomed to be paid; and of your Proceedings herein, the ſaid Commiſſioners jointly or ſeverally are required to return to this Board their Report, with their Reaſons inducing them, with all convenient Speed.

At *White-Hall*, the 2d of *October*, 1667.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

WHEREAS upon Complaint of the Governor and Company of the *New River* Water, *Edward Hopkins*, of *Waltham Abbey*, and *Edward Chapman*, of *Ware*, *Bargemen*, by Order of the 11th of *September*, were ſummoned to appear at this Board, the 18th of the ſame, which accordingly they did; and for that it appear'd ſome other Perſons were concerned in the Matter in Queſtion, it was Ordered, That the Cauſe ſhould be hear'd the 25th of *September*, ſince which Time there hath been no farther Proceeding therein; It was this Day Ordered (His MAJESTY preſent in Council) That the ſaid Buſineſs, touching the Complaint of the Governor and Company of the *New River* Water, againſt the ſaid Bargemen, and whatſoever elſe concerns the River of LEA, be taken into Conſideration, on *Friday*, the 11th of this inſtant *October*; At which time, as well the Complainants as the ſaid *Hopkins* and *Chapman*, the Bargemen aforeſaid, and all others concerned are to give their Attendance, with their Council learned, if they pleaſe: And it is alſo Ordered, That the Lord Viſcount *Fanſhaw* have timely Notice hereof, who is hereby required then alſo to attend this Board; And that in the mean Time, the Bargemen attempt Nothing, which may be any ways prejudicial to the Complainants; And all Parties are hereby Authorized to ſummon ſuch Witneſſes as they conceive are able to Evidence any Truth, concerning the Matters in

Queſtion; And ſuch Perſons who ſhall be ſummoned, are hereby willed and required then allo to appear and give their Attendance.

At *White-Hall*, the 16th of *October*, 1667.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council*,

UPON reading the humble Petition of *Edward Hopkins*, *Edward Chapman*, *John Hilliard*, *Edward Godfrey*, *John Barrett*, *John Adams*, *William Adams*, *Joſeph Angier*, *Humphrey Ellis*, *Richard Dickenſon*, on behalf of themſelves and all others, the Maſters and Barge-maſters, of the Towns of *Hertford* and *Ware*, ſetting forth, That by Reaſon of divers *Wears*, *Sluices*, *Turnpikes*, *Mills* and *Damms*, made in ſeveral Places in the River LEA, between *Hertford* and *London*, the Water belonging to the ſaid River, is ſo diverted in its Current, and drawn out of the River, that Barges cannot paſs backward or forward, either light or loaden; but are forced often to lie on Ground, and buy Water at an exceſſive Rate, from thoſe who draw the ſame out of the River, which coſts them about Thirty Shillings *per* Barge, for each paſſage, backward and forward, to the utter Undoing of the Petitioners and Deſtruction of Navigation, the River being in many Places become unpaſſable; And farther ſetting forth, That upon former Complaint to this Board, of the Matters aforeſaid (His MAJESTY in Council) it was the 18th of *May* 1666, referred to the Commiſſioners of Sewers for the County of *Hertford*, to receive the Bargemen's Complaints, examine the Truth of them, and to ſummon all Parties before them, and make ſuch Orders for Redreſs of the Petitioners, as ſhould be reaſonable, and to Report them to this Board; In Purſuance of which Order the ſaid Commiſſioners did the 9th and 15th of *June*, 1666, make ſeveral Orders annexed for regulating the Abuſes complained of, and bringing down the Prices ſet upon the Petitioners for their Water to paſs, with which Orders for ſome time, the Parties concerned but ſince do refuſe to conform thereunto; And therefore prayed, That the ſaid Orders of Commiſſioners of Sewers, might be confirmed by Order of this Board, to be obſerved and conformed unto, by all Parties concerned therein, until the Matters in Difference might be compoſed, and ended, and this Board take further Order; and in order to the compoſing thereof, and to redreſs the Grievances complained of, and prevent the Deſtruction of Navigation of that River, humbly prayed for the ſaving his MAJESTY the Trouble, it might be referred to ſome indifferent Gentlemen, not concerned in the *New River*, or Proprietors, or intereſted in any of the *Wears*, *Sluices*, *Turnpikes*, *Mills* and *Damms* complained of, to call before them all Perſons complained againſt, and to hear both Sides, and to examine Witneſſes, and conſider of the Abuſes committed, and regulate the ſame, by making ſuch Orders as they ſhall ſee to be juſt and reaſonable, and report the ſame, together with their Opinion thereupon, to this Honourable Board; And upon hearing Council for the *New River* Men, and for the *Lord Mayor*, and the City of *London*, and for the Barge-maſters, and Maſters; It was this Day Ordered (His MAJESTY preſent in Council) That it be, and hereby it is referred, to Sir *Thomas Leventhorpe*, Sir *Richard Adkins*, Sir *William Glaſſock*, Sir *Thomas Dacres*, Senior, Sir *Thomas Dacres*, Junior, Sir *John Gore*, Sir *Humphrey Gore*, and Mr. *George*

George Bromley, or any Five of them; who are forthwith desired to meet and to consider of the Petitioners Petition, and the Matters therein complained of, who are hereby Authorized and Impowered to send for all Persons, that are complained of, and to examine all Matters and Witnesses, to prove the Petitioners Allegations, and see what *Mills*, *Sluices*, *Wears*, *Damms* and *Turnpikes*, are upon the said River LEA, or what other Things are done, by any Persons prejudicial to Navigation, and how long such have been made, what antiently the Customs have been, what formerly Bargemen paid, for their Waters, at any of those *Mills*, *Sluices*, *Wears*, *Damms* and *Turnpikes*, and what now is exacted from them, and to agree all Matters in Differrence between them, if they can; and if they cannot agree, then to consider what is fit to be done, for the regulating of the said Grievances complained of, and for Preservation of the said River, and to make their Report of their Proceedings herein, with all convenient Speed, to this Board, to the End such Order may be made thereupon as shall be necessary: And it is farther Ordered, That in the mean Time, and until this Board shall take further Order, That *Thomas Worrell*, and *John Worrell*, of *Tottenham*, do shut down and draw such Water for the Bargemen, both by the upper and lower Gates, as shall from Time to Time carry them away, and that at such Rates as by an Order of the Commissioners of Sewers, made the 13th of *June*, 1666, is directed, and shall observe and keep the said Order, in every Particular, as they will avoid the Contempt of this Board, and answer the contrary at their Perils. And that *Edward Clayton*, *Thomas Forde*, *John Poyde*, *Jonathan Ward*, *John Harlow*, and *John Merlyn*, do observe the Order, made by the Commissioners of Sewers, the 9th of *June*, 1666, for them to keep in every Particular of them as they will answer the contrary, and avoid being proceeded against as Contemners of the Orders of this Board.

At *White-Hall*, the 16th of *October*, 1667.

PRESENT,

The KING's *most Excellent* MAJESTY *in Council.*

THE Matter upon the Complaint of the Governor and Company of *New River* Water, against *Edward Hopkins*, of *Waltham Abbey*, and *Edward Chapman*, of *Ware*, Bargemen, for pulling up a Damm, in part of the River LEA, called *Manifold-Ditch*, by which the Water was heightned to run into and supply the said *New River*, coming this Day to be heard at this Board, and also the Matter upon the Petition of the said *Edward Hopkins*, *Edward Chapman*, and divers other Bargemen of *Ware*, complaining against the said Damm, and divers other *Sluices*, *Floodgates* and *Damms*, made upon the said River, whereby the Navigation is obstructed, from *London* to *Ware*, and from *Ware* to *Hertford*, in the River LEA, which is an antient Navigable River, to and from the Places aforesaid, (as was alledged) being then also heard, none appearing for the Lord Viscount *Fanshaw*, who was by several former Orders, ordered to attend concerning a Damm, alledged to be erected by him, at the Head of *Manifold-Ditch*, in the River LEA, whereby the Water is diverted from *its antient Course*, *unto his Lordship's Mills*, near *Ware*, to the Prejudice of the *New River*, and stopping of the antient Course of Navigation; And as well the said Governors of the *New River*, as the said Bargemen, being heard by their Council learned, and Council being also then heard on behalf of the City of *London*, for as much as the Matters appeared to be of great Concernment, both to the *New River*, who have antiently had Two Pipes, the One of about Nine, the other of about Sixteen Inches Bore, laid in a Cut, in or near

Chalk

Chalk Iſland, for conveying of Water out of the ſaid River LEA, into the *New River*, to which the Waters would not riſe (as was alledged) unleſs the ſame were raiſed by ſome *Damm* or *Turnpike*; And that a *Turnpike* had been there placed, by the ſaid Governors of the *New River*, by order of the Commiſſiones of Sewers, about Nine Years ſince, as alſo for that the Navigation upon the ſaid River LEA, is of great Importance to be preſerved; Upon Conſideration had of what was ſaid on all Sides, It was thought fit and Ordered (his Majeſty preſent in Council) by and with the Conſent of the ſaid Governors of the *New River*, and of the ſaid Bargemen, That it be, and it is hereby referred to Sir *Thomas Leventhorpe*, Sir *Richard Adkins*, Sir *John Gore*, Sir *Humphrey Gore*, Sir *William Glaſſock*, Sir *Thomas Dacres* Sen. Sir *Thomas Dacres* Jun. and *George Bromley*, Gent. or any five of them, who are deſired to call all Parties concerned before them, and ſuch Witneſſes as they ſhall think neceſſary, and to examine the ſeveral Matters complained of, and to agree and ſettle the ſame, if they can, with the beſt Convenience to the Navigation of the River LEA, and alſo to the ſupplying the *New River*; and if they cannot, that then they report their Proceedings therein, together with their Opinions thereupon, unto this Board, with all convenient ſpeed: and in the mean Time, they are deſired to ſee all Things preſerved in the ſame Plight, as they were the 18th Day of *September* laſt, according to the Order of this Board then made; And the Bargemen are Diſmiſſed from farther Attendance on this Board.

At *White-Hall*, the 16th of *October*, 1667.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

THE Matter in Differrence between the Governor and Company of the *New River Water*, and *Edward Hopkins*, of *Waltham Abbey*, and *Edward Chapman*, of *Ware*, *Bargeman*, concerning the pulling up a Damm, which was put up croſs the River LEA, between *Hertford* and *Ware*, by the *New River* Men, coming this Day to be heard; Upon hearing Council for the ſaid Governor and Company of the *New River Water*, and of Council for the *Lord-Mayor* and City of *London*, and the *Maltſters* and *Bargemaſters* of *Ware* and *Hertford*; It appearing that the ſaid Damm, was by a Preſentment made, by a Jury impannelled by the Commiſſioners of Sewers, for the County of *Hertford*, the 25th of *September*, 1667, preſented to be a Common Nuſance; by Means whereof the River is almoſt become uſeleſs; and that the ſaid Damm is erected in the antient Way, and Paſſage, that Barges have uſed to go from *Ware* to *Hertford*; And it appearing the ſaid Damm had not been erected above Two Years, and was greatly prejudicial to Navigation; It was Ordered (His MAJESTY preſent in Council) That the Petition of the ſaid Governor and Company of the *New River Water*, be diſmiſſed; and *Edward Hopkins*, and *Edward Chapman*, are hereby diſcharged from any farther Attendance on this Board, for the Matter aforeſaid.

At the Court, at *White-Hall*, the 29th of *July*, 1668,

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

WHereas the Governor and Company of the *New River* did by their Petition this Day read at the Board, humbly repreſent, That upon ſome Differences

between

between the Petitioners and the Barge-masters of *Ware*, concerning a Water-course from *Manifold-Ditch*, into the *New River*, and hearing the Parties on both Sides, His MAJESTY was graciously pleased, the 16th of *October* last, by consent of both Parties to refer the Matter to Sir *Thomas Leventhorpe*, Sir *Richard Adkins*, Sir *John Gore*, Sir *Humphrey Gore*, Sir *William Glassock*, Sir *Thomas Dacres*, Senior, Sir *Thomas Dacres*, Junior, and Mr. *George Bromley* or any Five of them, to examine the Differences, agree the Parties and settle the whole Matter, or to report to the Board; In pursuance whereof, the said Referrees having met several Times, and taken to their Assistance Three of the Commissioners of Sewers, neighbouring to *Ware*, and tried several Experiments, to find out if the Water so running into the *New River*, be any Prejudice to the Navigation of the River LEA, cou'd not make the said Business ready for a Report, in Regard, many of the said Referrees were absent; and therefore praying that such others may be added as shall be thought fit, to the End the said Business may be reported to this Board, and a speedy Issue put to it, It was Ordered by His MAJESTY in Council, That Sir *William Hicks*, Bart. Sir *James Altham*, Knight of the *Bath*, Sir *Henry Wroth*, Sir *John Harrison*, Sir *Thomas Allen*, Knights, be, and they are hereby added to the aforesaid Referrees, and Authorized and Required to hear and examine the said Matters in Difference, and execute and do such other Acts and Things, as by the said Order of the 16th of *October*, are directed and enjoined; And it was further Ordered, That both the Petitioners and the said Barge-masters, do observe such Rules and Orders, as the said Referrees shall from Time to Time make, in the Business aforesaid; wherein if either Side shall be faulty, that then the said Referrees make report thereof to this Board.

At the Court, at *White-Hall*, the 5th of *April*, 1669.

PRESENT,

The KING's *most Excellent* MAJESTY *in Council.*

UPon Reading this Day at the Board, the humble Petition of the Governor and Company of the *New River*, brought from *Chadwell* and *Amwell*, to *London*; setting forth, That *Henry Dunstar*, *Esq*; having some causeless Controversy with the Petitioners, did on *Thursday* was Seven-night, cause *Thomas Norton* and *William Eustard*, to cut the Banks of the *New River*, near *Chalk Island*, in the County of *Hertford*, Six Foot Broad, and Two Foot within the Water, and continued to keep the same Cut open all the Week, notwithstanding he was required by an Order of the Commissioners of Sewers, of the Counties of *Hertford*, *Essex* and *Middlesex*, (of which he had timely Notice) to make up the said Cut, by Means whereof the Water runs out so Violently, that in little Time it will draw the whole River dry, and put a Stop to the farther Building in the City of *London*, besides the other Mischiefs that will ensue; and therefore praying that the said Persons may be sent for to answer the Premises; It was Ordered by His MAJESTY in Council, that the said *Henry Dunstar*, *Thomas Norton*, and *William Bustard*, and every of them, be, and they are hereby required and commanded, to give their Attendance on His MAJESTY, in Council, on *Wednesday* next, the 7th Instant, at Three of the Clock in the Afternoon, to Answer the said Complaint of the Petitioners, whereof they may not fail at their Perils.

At

At the Court, at *White-Hall*, the 5th of *May*, 1669.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council*,

UPon hearing this Day at the Board, the Cauſe between the Governor and Company of the *New River*, and *Henry Dunſtar*, *Eſq*; wherein it had been ordered by this Board, the 7th of *April* laſt, by conſent of both Parties, That the ſaid *Henry Dunſtar*, ſhould by the next Day following, make up at his own Charges the Banks of the *New River* in *Chalk Iſland*, which he hath cauſed to be cut, to let the Water of the *New River* run at waſte, and the ſaid Parties to go to a Trial at Law, and it not being ſettled how that Trial ſhould be; And this Day, it appearing to Board, that the *New River* being ſettled by Two Acts of PARLIAMENT, whereby it is forbidden to cut the Banks thereof, or let out, or any Way divert the Water and Stream of the ſaid *New River*; And the Preſervation of the ſaid *New River* being of Publick Concernment, and a Matter of State, fit to be defended by His MAJESTIES Prerogative Royal, as hath been by His MAJESTIES Royal Father, and Grandfather, of bleſſed Memory; And it being affirmed by the Council for the *New River*, and not denied, that they had enjoyed the Watercourſe of the ſaid River, contiguous to the Land, now in the Poſſeſſion of the ſaid Mr. *Dunſtar*, as they now do, above Sixty Years, without any Moleſtation from his Predeceſſors; and that the ſaid Mr. *Dunſtar* hath, or doth not ſuffer any Damage or Prejudice by the ſaid *New River*; And the Corporation offering for Peace and Quietneſs Sake, to give him Twenty Years Purchaſe, or a Third Part more than he can Sell it for, and he demanded Five Thouſand Pounds, for what is not worth One Thouſand Pounds, and it being farther alledged, That in the late dreadful Fire in *London*, many of their Deeds and Conveyances of Lands, through which the ſaid *New River* paſſeth to the City of *London*, were burnt; It was thereupon, upon mature Conſideration of the whole Matter, Ordered (His MAJESTY preſent in Council) That the ſaid former Order of the 7th of *April*, as to the Trial at Law, be, and it is hereby vacated; And the ſaid Mr. *Dunſtar* is commanded at his Peril, not to cut any of the Banks of the ſaid *New River*, or any other Banks, by which the Water of the ſaid *New River* may be diverted out of the Cut and Stream thereof; it being of moſt neceſſary and publick Concern, for the Benefit of the City of *London*, and Inhabitans thereof. And as to the Fines impoſed by the Commiſſioners of Sewers upon the ſaid Mr. *Dunſtar*, they are let to proceed thereupon, as they ſhall ſee Cauſe, the ſaid former Order notwithſtanding.

At the Court, at *White-Hall*, the 19th of *May*, 1669.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

THe humble Petition of the Governor and Company of the *New River*, being this

Day read at the Board, ſetting forth That altho' the publick Utility of the *New River*, brought from *Chadwell*, and *Amwell* in the County of *Hertford*, to *London*, hath been approved and countenanced, both by Acts of PARLIAMENT, in the Time of King JAMES, and by moſt particular Marks of Favour of King CHARLES the firſt, of ever bleſſed Memory, by his Royal Covenant, to interpoſe his Royal Prerogative upon all juſt Occaſions, for Maintenance and Preſervation of the ſaid *New River*, and by Iſſuing forth his moſt Gracious Proclamation forbidding any Injury or Prejudice to be done to the ſaid Cut, or to the Stream and Water thereof; which ſaid Means were ſo effectual, that the Petitioners enjoyed the Fruits thereof, without Interruption; That one *Henry Dunſtar*, *Eſq*; who hath half an Acre of Land, bankt upon a Cut of the *New River*, did cut his ſaid Bank, and thereby made the Water of the ſaid River, run at waſte, that divers Perſons have by Mr. *Dunſtar*'s Example, cut the Banks of the River in ſeveral Places, privately, whereby the River is exceedingly impaired, and the building and well being of the City of *London*, endangered and retarded; His MAJESTY taking into his Royal Conſideration, the Great Miſchiefs and Inconveniences which might follow thereupon, if not timely prevented, was graciouſly pleaſed in Council to Order, as it is hereby Ordered; That his Majeſties Attorney-General, do forthwith prepare the Draught of a Proclamation (according to the Tenour of the former, of the 24th of *February*, in the 14th Year of his late MAJESTIES Reign) with ſuch Alterations and Additions as the Time requires, for the careful Cuſtody and well Ordering of the *New River*, brought from *Chadwell* and *Amwell*, to the North Part of the City of *London*, and preſent the ſame to this Board.

At the Court, at *White-Hall*, the 16th of *June*, 1669.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

UPpuo Reding this Day at the Board, the Draught of a Proclamation, prepared by his Majeſties Attorney-General, for the careful Cuſtody and well Ordering of the *New River*, brought from *Chadwell* and *Amwell*, to the North Parts of the City of *London*; His MAJESTY was pleaſed to approve thereof, and did Order that the ſaid Proclamation be forthwith prepared for his Majeſties Royal Signature, to the End the ſame may be Printed, and Publiſhed; Provided that the Governor and Company of the ſaid *New River*, do defray the Expences of paſſing, printing and diperſeing the ſaid Proclamation.

At the Court, at *White-Hall*, the 18th of *June*, 1669.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

THe Proclamation prepared by Mr. Attorney-General, for the careful Cuſtody and well Ordering of the *New River*, brought from *Chadwell* and *Amwell*, to the

North Parts of the City of *London*, was read, and allowed of this Day, by His MAJESTY in Council; and Ordered to be forthwith printed and publiſhed.

WHereas this Board is informed by ſeveral Depoſitions, That Mr. *Thomas Izard*, of St. *Margaret's*, in the County of *Hertford*, *John Cook* of *Stanſtead*, near St. *Margaret's* aforeſaid, *Carpenter*, *Robert Boram*, of *Hodgdon*, *Collermaker*, and *Robert Martindale*, of *Hodgdon* aforeſaid, *Husbandman*, have cut, and cauſed the Banks of the *New River*, brought from *Chadwell* and *Amwell* to the City of *London*, to be cut, and the Water thereof diverted, by making Damms croſs the Current, to turn it into their own Grounds; whereby the River Stream is much abated, and in Danger to become uſeleſs; Theſe are therefore to Will and Require you to Repair to the ſeveral Dwelling Places, of the ſaid *Thomas Izard*, *John Cook*, *Robert Boram*, and *Robert Martindale*, or wherever elſe you ſhall find them; and them and every of them to apprehend, and in your Company to bring to this Board, to anſwer the Premiſes. Willing and Requiring all Juſtices of the Peace, &c. (as in uſual form) Dated the 23d of *June*, 1669.

SIGNED,

Duke of Ormond,
Earl of Craven,
Lord Arlington,
Marquis of Dorcheſter,
Earl of Lauderdail,
Lord Holles,
Earl of St Alban's,
Earl of Tweedale,
Mr, Secretary Trevor.

Directed to *Thomas Dixon*,
One of the *Meſſengers*, &c.

WHereas Information hath been given to this Board upon Oath, That Mr. *Joſeph Prickman*, of *Theobalds*, Mr. *Joſhua Gallard*, *Nicholas Mutton*, and *Robert Welch*, *Brewers*, have lately cauſed the Banks of the *New River*, brought from *Chadwell* and *Amwell* to *London*, to be cut, whereby the Stream thereof is much abated, and the City of *London* will be put to great Exigencies for want of Water; Theſe are therefore, &c. Dated the 21ſt of *July*, 1669.

SIGNED,

Ld. Arch Biſh. of Canterbury,
Earl of Craven,
Duke of Ormond,
Lord Biſhop of London,
Lord Chamberlain,
Mr. Secretary Trevor.

At a Seſſion of Sewers, holden by His MAJESTIES *Commiſſioners of Sewers, for the River* LEA, *and the* New River; *at the* Black Bull, *at* Hodgdon, *in the County of* Hertford, *on* Saturday, *the* 14*th of* Auguſt, 1669.

WHereas at a Meeting at the *Crown* at *Ware*, on *Wedneſday* in *Eaſter* Week, being the 25th Day of *March*, 1668. By Sir *Thomas Leventhorpe*, *Knight*, and *Barronet*, Sir *Thomas Dacres*, Senior, Sir *John Gore*, Sir *William Glaſſock*, *Knights*, and *George Bromley*, *Gentleman*. Commiſſioners of Sewers, for the Rivers aforeſaid, and Referrees by Order of the King's Majeſty, and his Council, of the 16th of *October*, 1667, concerning Offences, done and committed, in and upon the ſaid Rivers, and upon View by them then had, and taken of the Damm made and erected, croſs *Manifold-Ditch*, on the ſaid River of LEA, at or near *Chalk Iſland*, in Order to the ſettling of the Differences, between the Governors and Company of the *New River*, and *Edward Hopkins*, *Edward Chapman*, and other Barge-maſters, of or belonging to the River of LEA; and upon hearing of the Parties on both Sides, it was then Ordered by the Commiſſioners and Referrees, in the Preſence of, and with the mutual Conſents of the ſaid Parties, That the Two Pipes for conveying Water, out of *Manifold-Ditch*, into the ſaid *New River*, ſhould be ſupplied with Water; and for the better effecting thereof, there ſhould be Two ſubſtantial Jetties made and erected, at the Charge of the ſaid Governor and Company, at or near the Place, where the ſaid Damm was or had been, heretofore ſtanding, on each ſide of the ſaid *Manifold-Ditch*, at Fourteen Feet Diſtance or there-abouts, the one from the other; ſo that a free Current or Paſſage for the Water between the ſaid Jetties, of the Breadth of Fourteen Feet or there-abouts, might be left. Which ſaid Jetties ſhould be erected on or before the 1ſt of *May*, then next enſuing, to the End it might appear, whether the Stoppage of the Current of Water, by Reaſon of the ſaid Jetties, might not only be advantageous to the ſaid Governor and Company, of the ſaid *New River*, in Reſpect of their Intereſt, for their filling and ſupplying of their Two Pipes there, for the Paſſage and Conveyance of their Water to the City of *London*, but alſo to the ſaid Barge-maſters, for and in Reſpect of the Paſſage of their Barges, to and fro, upon the ſaid River of LEA. And it was alſo then farther ordered, by them the ſaid Commiſſioners and Referrees, and condeſcended and agreed unto, by all the ſaid Parties, That no Perſon or Perſons whatſoever, at any Time or Times then after (until Order ſhould be given by the King's Majeſty, and his Privy Council, or by the ſaid Referrees, or Commiſſioners of Sewers) ſhould be done, or cauſe to be done, any Act or Acts, Thing or Things whatſoever, for, towards, or tending to the Alteration, or pulling down of any of the Damms or Jetties, then ordered and appointed to be ſet up, in, or upon the ſaid *Manifold-Ditch*, to hinder, interrupt, or diſturb any Work, or Works then done, or before the ſaid firſt Day of *May*, then next following, ſhould be cauſed to be erected or done, by the ſaid Governor and Company, of the ſaid *New River*, in order thereunto. And Whereas by one other Order of the ſaid Commiſſioners, of the 22d Day of *July* laſt, it was then ordered, That the Governor and Company of the ſaid *New River*, ſhould within Ten Days, then next enſuing, cauſe the Cell to be taken up, between the Two Jetties, made and erected at or near *Chalk Iſland*, and lay their Pipes there, where they formerly lay, within the ſame Time, NOW upon reading the ſaid recited Orders, and hearing ſeveral Allegations on both Sides, it is Ordered, That the aforeſaid Order, of the 25th of *May*, 1668, ſhall be, and is hereby continued, according to the Intent and true Meaning thereof: And that a Cell be made, without Mortis Holes, and laid where the former Cell was; any Thing in the ſaid Order, of the 22d Day of *July* laſt, to the contrary thereof notwithſtanding.

At the Court, at *White-Hall*, *Auguſt* 28th, 1669.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

ON the humble Petition of the Governor and Company of the *New River*, this Day read at this Board, ſetting forth, That upon Complaint formerly made by the Petitioners to this Board, againſt divers Bargemen of *Ware*, for pulling up a Damm in *Manifold-Ditch*, by which the Water was made, more conveniently, to paſs through Two Pipes antiently there placed, to ſupply the *New River*, His Majeſty was graciouſly pleaſed, on the 16th of *October*, 1667, to Refer the Matter to Sir *John Gore*, and others of the County of *Hertford*, Commiſſioners of Sewers, for the *New River*, and the River LEA, to ſettle a Report concerning the ſame; That the ſaid Sir *John Gore*, and others, did accordingly meet, and with the conſent of all Parties concerned, on the 25th of *March*, 1668. ordered, as an Expedient, That Two Jetties ſhould be ſet upon each ſide of the ſaid *Manifold-Ditch*, inſtead of the Damm, to turn the Water into the *New River* Pipes, between which, ſhould be left Fourteen Feet Water, for Boats to paſs; which Jetties have continued ever ſince, without Interruption: But it was now complained, by ſome of the Perſons concerned in the ſaid *New River*, That by Reaſon the Weeds are lately cut away, in the ſaid *Manifold-Ditch*, below the ſaid Jetties, the *New River* Pipes are altogether unſupplied; which in this very Dry Time may be very Miſcheivious. And the Petitioners ſetting forth farther, That there are divers Gentlemen in the County of *Middleſex*, who are of the ſame Commiſſion of Sewers, and equally concerned in the Preſervation of both Rivers; And praying, That to prevent all Occaſions of Miſunderſtanding, the ſaid Commiſſioners of Sewers of the County of *Middleſex*, for the ſaid Rivers, may be deſired alſo, on their Parts, to view the ſaid Jetties and Pipes, and conſider if the Jetties be any Hindrance to the Navigation, and if they do ſufficiently turn the Water into the *New River* Pipes; And that after Conferrence hereupon, between theſe Commiſſioners and the former Referrees, of the County of *Hertford*, a Report may be made to this Board, by *Michaelmas* next, by them all, of their Opinions therein; And that until farther Order from hence, the *New River* Pipes ſhould be ſupplied with Water, as in the Order of the ſaid Referrees, now read at the Board, is agreed. Upon Conſideration of the ſaid Petition, Orders and Complaints, it was ordered (His MAJESTY preſent in Council) That the Commiſſioners of Sewers for the County of *Middleſex*, do meet, to view and ſurvey the ſaid Jetties; and Conſider if they hinder Navigation, or do ſufficiently turn the Water into the *New River* Pipes; or if any other Expedient can better be found for ſupplying the ſaid Pipes, without Prejudice to the Navigation of the River LEA. Upon all which Particulars, the Commiſſioners aforeſaid, are alſo ordered to meet and confer with the former Referrees, of the County of *Hertford*, and by *Michaelmas* next, they are all required to report unto this Board, their Opinions, upon the whole Matter. And in the mean Time, it is directed, That ſome ſpeedy Means be uſed, for ſupplying the Pipes of the *New River* with Water, out of *Manifold-Ditch*.

At the Court, at *Hampton-Court*, the 15th of *September*, 1669.

Preſent, The KING's *moſt Excellent* MAJESTY *in Council.*

UPon Reading this Day at the Board, a Report ſigned by Six of the Referrees, to whom (amongſt others) the Matters in Difference between the Governor and Company of the *New River*, and the *Maltſters* and *Barge-maſters* of *Ware*, and *Hertford*, were referred, by two ſeveral Orders of this Board; one of the 16th of *October*, 1667, and the other of the 29th of *July*, 1668, to ſettle the ſame if they could, or otherwiſe to make Report to this Board, as by the ſaid Orders and Report more at large appeareth. And upon hearing Mr. *Offley*, of Council for the *Maltſters* and *Barge-maſters*, it was Ordered (His MAJESTY preſent in Council) That the *Lord-Mayor* of the City of *London*, and Mr. *Ayliffe*, of Council for the Governour and Company of the *New River*, have Notice hereof; And that as well the Gentlemen who made the ſaid Report, as Mr. *Ayliffe*, the Governor and Company of the Corporation of the *New River*, and all other Perſons concerned, do attend his MAJESTY in the Council Chamber, at *Whitehall*, on *Wedneſday* the 22d of this Inſtant *September*, at Nine of the Clock in the Morning; at which Time, the ſaid Matters in Difference, are intended to be taken into Conſideration.

At the Court, at *White-Hall*, the 22d of *Sept.* 1669.

PRESENT,

The KING's *moſt Excellent* MAJESTY *in Council.*

Lords Preſent,

His Royal Highneſs the *Duke* of *York*

His Highneſs Prince *Rupert*	Earl of *Craven*	Lord *Holles*
Ld. Arch Bp. of *Canterbury*	Earl of *Lauderdail*	Mr. *Treaſurer*
Lord *Keeper*	Earl of *Orrery*	Mr. Vice *Chamberlain*
Duke of *Albemarle*	Lord of *Arlington*	Mr. Secretary *Trevor*
Duke of *Ormond*	Lord *Newport*	Mr. Chancellor of
Earl of *Bath*	Lord *Berkley*	the *Dutchy*.

WHereas the Matters in Difference between the Governor and Company of the Corporation of the *New River*, and the *Maltſters* and *Barge-maſters* of *Ware* and *Hertford*, concerning the conveyance of Water out of the River LEA, into the *New River*, was by Order of the 15th of this Inſtant, appointed to be heard this Day; and the Parties concerned attending accordingly, and being called in, with their Counſel learned, and two ſeveral Reports, the one ſigned by Six of the Referrees, to whom (amongſt others) the ſaid Matters in Differrence, were by two ſeveral Orders of this Board, of the 16th of *October*, 1667, and the 29th of *July*, 1668, referred; to ſettle

the ſame if they could, or otherwiſe to make Report to this Board; the other ſigned by 15 Commiſſioners of Sewers, for the River LEA and the *New River*, reſiding in the County of *Middleſex*, to whom the ſame Matters were alſo referred, by Order of the 28th of *Auguſt* laſt, being read; As alſo ſeveral Depoſitions of Witneſſes and other Evidences; And by hearing Council learned, for both Parties, as alſo Council for the City of *London*, in Behalf of the Navigation of the River LEA, and long Debates thereupon; His Majeſty taking into his Princely Conſideration, as well the Great Uſe and Benefit of the Navigation of the River LEA, not only to the City of *London*, and County of *Hertford*, but alſo to the adjacent Counties, as the Neceſſity of ſupplying the City of *London* with the *New River* Water, was graciouſly pleaſed in Council to order, and it is accordingly Ordered, That the Governor and Company of the *New River*, do take away their Great Pipes, now lying in the River LEA; and inſtead thereof, do lay two leſſer Pipes; the one of eight and the other of ſix Inches Bore, at or near the Places where the Great Pipes lie; and ſo to Place and Contrive them, that they may be conſtantly ſupplied with Water, to ſupply the *New River*. And if upon Trial it ſhall be found, That the Water in the River LEA, will not always riſe high enough to fill the ſaid Pipes, That then the ſaid Governor and Company, may, and are hereby Authorized, to ſet up and uſe a *Turnpike*, *Jetty*, or ſome other Device, to raiſe and force the Water to the Pipes, whereby they may be rendred moſt uſeful to the *New River*: Yet ſo as may not cauſe an Inundation on Meadow Grounds adjoining, nor retard or endanger the Veſſels that ſhall paſs that Way. And hereof all Perſons concerned are to take Notice, and to conform themſelves hereunto accordingly; as they will anſwer the Contrary at their Perils.

A Copy of the Queries, *upon the Caſe of the Navigators of* Hertford; *with the Opinion of an eminent Council thereupon,* September *the* 18th, 1732.

Q. WHat Ways and Methods may the ſaid Navigators take, to oblige the *New River* Company to take no more Water out of the ſaid Navigation, than what will run thro' the ſaid ſmall Pipes ſo allowed them, by the ſaid Order of Council, of the 22d of *September*, 1669? And may not the ſaid Navigators, if they pleaſe, return again to their Old Navigation, thro' *Manifold-Ditch* aforeſaid, and thro' the ſaid *New River* Company's New *Turnpike*, as often as they ſhall want the ſame? And in Caſe the ſaid *New River* Company, ſhall refuſe them Paſſage, thro' the ſame, may they not Force their Way thro' the ſaid *Turnpike*, in the beſt Manner they can; ſince the ſame is erected croſs the antient Navigable Stream of *Manifold-Ditch* aforeſaid, notwithſtanding their diſuſe of that lower Way, upon the Account, and for the Reaſons herein before mentioned, and their having made uſe of the ſaid upper Way in the interrupted Manner herein before deſcribed?

A. THIS is a Caſe of very great Conſequence. A Navigable River is a publick Highway, and I do not ſee how it can be lawfully obſtructed by conſent of any Private Perſon or Corporation; nor do I think that the Orders of Council in this Caſe, are concluſive, as to the Right. The drawing or diverting of Water out of the Navigable River, whereby the Navigation is prejudiced, I conceive is an Offence indictable. But where there are ſeveral Streams, into which a Navigable River divides itſelf, it ſeems to me that the Commiſſioners of Sewers may order one Stream to be obſtructed, for the better Convenience of the Country and Navigation thro' the other. Taking the Law to be ſo, I cannot Adviſe the Corporation of *Hertford* (eſpecially after ſo long an Acquieſcence) to uſe any Force in this Caſe, before the Right hath been Tried; which I think it may properly be by an Indictment. The having the *New River* Water, is of great Concern to the City of *London*, and it were to be wiſh'd that an Act of Parliament might be obtained, by a general Conſent, for ſettling all theſe Diſputes; that both the Navigation, and the *New River* Water, may be preſerved.

Q. AS the ſaid New *Turnpike*, of the ſaid *New River* Company, is ſet croſs the antient Stream of *Manifold Ditch* (the Soil and Fiſhery whereof are the Property of the Corporation of *Hertford*, as above-mentioned) therefore may not the ſaid Corporaton if they cannot obtain Satisfaction for the Damages done them, pull up, and deſtroy the ſaid *Turnpike*, notwithſtanding they have taken no Notice of the ſame, for the laſt Eighteen Years? Or if they ſhould be inclined to take milder Methods for Satisfaction of the Damages done them, may they not at all Times with Fiſhing Boats Demand a Paſſage thro' the ſaid *Turnpike*, and in Caſe of Refuſal, may they not force their Way thro' the ſame, in the beſt manner they can?

A. IF this *Manifold-Ditch* be ſtill a Navigable River, and the *New River* Company have (without any legal Authority) erected a *Turnpike* croſs it, which is a Prejudice to the

A. the Navigation, I think it might be abated as a Nuſance. But as theſe are Points in diſpute, I cannot adviſe the pulling down or deſtroying the *Turnpike* till the Matter be tried at Law; which may be done, as I conceive, in the Method before preſcribed, by Indictment. If the Fiſhery of the Corporation is damaged by this *Turnpike*, I conceive they have a Remedy by Action, it being a private Right. And I ſee no Objection to their demanding a Paſſage thro' the *Turnpike*, with their Fiſhing Boats, and getting thro' the ſame, if they can without Breach of the Peace.

Q. AS the Navigation between *Hertford* and *Ware*, is an Antient Navigation, and has been had and enjoyed by all Navigators, for Time immemorial, thro' *Black-Ditch* aforeſaid (the loweſt Way in Point of Scituation, ſo the moſt natural as well as Antient Stream and Paſſage) Therefore had the Commiſſioners acting under any Commiſſioners of Sewers, a legal Power to order or juſtify the ſtopping up of *Black-Ditch*, or ſtopping up the ſaid *Manifold-Ditch* in part, by any Law or Order of theirs, for thoſe Purpoſes. And could the *Mayor*, *Burgeſſes*, and *Comonalty* of *Hertford*, by Virtue of any ſuch Grant or Uſage, herein before mentioned, or by Virtue of any Charters of Incorporation, enter into any Agreement with the Proprietor of *Ware-Mill* aforeſaid, for changing the ſaid Paſſage thro' *Black-Ditch*, either for the ſaid upper Way thro' the ſaid Ciſtern, or for *Manifold-Ditch*; ſo as to bind the Inhabitants of *Hertford*, and other Navigators on the River LEA; or in Caſe the ſaid Article, between the ſaid Corporation and *Sir Thomas Byde*, were ever binding, are they not now Void, by the Breaches made upon them, herein before mentioned; And do not they now Ceaſe to be binding on the contrary Parties, their Succeſſors and Heirs?

A. There being different Paſſages, for the Water of the River LEA, by which the Navigation might in Fact be exerciſed, I conceive that the Commiſſioners of Sewers had Authority, to determin thro' which of their Paſſages the rightful Navigation did lie; and might order *Black-Ditch* to be ſtopt up, or *Manifold-Ditch* to be in Part ſtopt up, if they judged moſt beneficial for the Navigation, and conſiſtent with the Rights of the Owners of Lands or Mills upon the River. But ſuch Determinations of the Commiſſioners of Sewers were not final, but might in due Time, after the making thereof, have been removed by *Certiorari*, into the Court of *King's-Bench*, and there quaſh'd, if erroneous. As to the Power of the Corporation of *Hertford*, to enter into Agreements with the Owner of *Ware-Mill*, for changing the Paſſage, I apprehend that they might properly enter into ſuch Agreements, ſo far as related to their Right, to the Fiſhery of the Stream, or the Soil, if they had any ſuch; but that they could not bind the Right of the Inhabitants of *Hertford*, or other Navigators, as to the Right of Navigation, in the River LEA. If the Articles between the Corporation and *Sir Thomas Byde*, were ever binding, I think they are ſtill ſo; and notwithſtanding ſome Breaches of them may have been committed, have not loſt their Force; but the great Doubt ſeems to be, whether in their Original they were obligatory, as to the Navigation.

Q. May the Inhabitants of *Hertford*, and other Navigators on the River LEA, open the Old Way of Navigation, either thro' *Black-Ditch*, or *Manifold-Ditch*, not-

with

Q. withſtanding their Diſuſe of the old Way, upon the Account and for the Reaſons before mentioned, and their Uſe of the upper Way, in the interrupted Manner herein before deſcribed, and notwithſtanding the Orders of Sewers herein before mentioned; or what other and better Method is proper, for the ſaid Inhabitants of *Hertford* aforeſaid, and other Navigators to take, for the the Recovery of their Antient Navigation?

A. Conſidering that the Orders made by the Commiſſioners of Sewers, have never been quaſhed, or ſet aſide, and the long Diſuſe of the old Paſſage, I think it is not adviſable for the Navigators, to attempt to open it by Force. And if they ſhould attempt it, I apprehend that the Cout of *Chancery* would reſtrain them by Injunction, till the Right ſhould be determined. It ſeems to me that the moſt proper and regular Method, is to apply to the Commiſſioners of Sewers, complaining of the Obſtruction of the Navigation; and to get a Preſentment thereof made, and thereupon an Order, for opening the Paſſage of *Black-Ditch*, or *Manifold-Ditch*. Or if that ſhall be found not to be effectual, Aplication may be made to Parliament, for Redreſs of the Abuſes complained of; for which there is the ſtronger Pretence, becauſe the Legiſlature have frequently interpoſed, without Regard to this River LEA: particularly by Acts, 3. H. 6. ch. 5. 9. H. 6. ch. 9. and 13. Eliz. ch. 18.

Q. What Ways and Methods (and in particular whether by Information or Indictments) may the ſaid Navigators take, in order to oblige the *New River* Company, either to deſiſt from taking any Water at all out of the ſaid Navigation, or at leaſt no greater Quantity than what will run thro' the ſaid ſmall Pipes, ſo allowed them, by the ſaid Order of Council, of the 22d of *September*, 1668? And may not the ſaid Navigators, If they pleaſe, return again to their Old Navigation, thro' *Black-Ditch*, and *Manifold-Ditch* aforeſaid, and thro' the ſaid *New River* Company's New *Turnpike*, as often as they ſhall want the ſame? And in Caſe the ſaid *New River* Company, ſhall refuſe them Paſſage thro' the ſame, may they not force their Way thro' the ſaid *Turnpike*, in the beſt manner they can; ſince the ſame is erected croſs the Antient Navigable Stream, of *Manifold-Ditch* aforeſaid, notwithſtanding their Diſuſe of that lower Way, upon the Account and for the Reaſons herein before metioned, and their having made uſe of the ſaid upper Way, in the interrupted Manner herein before deſcribed?

A. I apprehend that the *New River* Company, or their Agents, may be indicted for a Nuſance, in making the New Cut, without Authority; whereby the Water of the River is diverted, to the Detriment of the Navigation, and to the Nuſance of all Perſons having Occaſion to uſe the Navigation of that River. As to the Navigators opening the Paſſage of *Black-Ditch*, or *Manifold-Ditch*, I have given my Thoughts under the 2d *Query*. But if it were to be opened, I conceive the Navigators might force their Way, thro' the *New River Turnpike*, erected by the Company, if Paſſage ſhould be refuſed them. But I cannot adviſe ſuch Methods of Force, becauſe in theſe Queſtions relating to the Navigation of the River LEA, and the ſupply of the *New River* Water, the Publick is concerned.

Q. As the ſaid New *Turnpike*, of the ſaid *New River* Company, is ſet acroſs the

Q. Antient Stream of *Manifold-Ditch* (The Soil and Fiſhery whereof, are the property of the Corporation of *Hertford*, above-mentioned) therefore may not the ſaid Corporation, if they cannot obtain Satisfaction for the Damage done them, pull up and deſtroy the ſaid *Turnpike*, notwithſtanding they have taken no Notice of the ſame, theſe Eighteen Years? Or if they ſhould be inclined to take milder Methods for Satisfaction of the Damages done them, may they not, at all Times, with Fiſhing Boats, demand a Paſſage thro' the ſaid *Turnpike*? And in Caſe of refuſal, may they not Force their Way thro' the ſame, in the beſt Manner they can?

A If the Property, Soil and Fiſhery of the Place, whereon this *Turnpike* is erected, are Veſted in the Corporation of *Hertford*, and it was erected without any Grant or Licenſe from them, I think, that in Point of Law, they may pull up and deſtroy it. But they having knowingly ſuffered it to be erected, and to be continued for Eighteen Years without Interruption, the Court of *Chancery* might reſtrain them from ſo doing, 'till the Right ſhould be tried. I think it is more adviſable for the Corporation, to take any legal Remedy by Action, Information, or Indictment, than Methods of Force; which may be attended with ill Conſequences.

PROPOSALS, *of the Navigators and Inhabitants, of the Towns of* Hertford, *and* Ware, *to the* New River *Company.*

THE Navigation on the River LEA, from the Towns of *Hertford* and *Ware*, to the River *Thames*, being of Great Advantage to the Counties adjacent, and alſo to the City of *London*, which is thereby ſupplied with conſiderable Quantities of *Meal*, *Flower*, *Malt*, and other Proviſions; and therefore worthy of the Care of the Publick, has nevertheleſs, for ſeveral Years laſt paſt, been ſuffered to be greatly impaired and damaged, by the *New River* Company, by their taking great Quantities of Water out of the ſame, between *Hertford* and *Ware*. And if the Right, by which the Company claim, to take Water out of the River LEA, be unſupported by good Foundation, as is the Opinion of ſome Gentlemen of Knowledge, or in Caſe the Company have good Right, to the Two Pipes, the One of Six Inches, and the other of Eight Inches bore, allowed them by Order of Council, in the Year 1669; Yet the Company, may either wholly or in Part, be reſtrained from taking the large Quantities they now do; amounting to One Third Part of the Water of the Navigable River, between *Hertford* and *Ware*. Notwithſtanding which, the Navigators and Inhabitants of *Hertford* and *Ware*, being diſpoſed to Accommodate the Company as much as may be, and alſo taking into Conſideration the great Benefit and Advantage, which the City of *London* does enjoy by the Water being conveyed thither by the Company, are (on account that the Springs which the Company are well entitled to, being not near ſufficient for the preſent great Demands for Water, in the City of *London*) diſpoſed to allow the Company a certain Quantity of Water, out of the River LEA, to be in a proper Manner aſcertained to them, on their paying a certain annual Rent for the ſame, out of the very great Profits the Company make thereof.

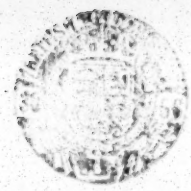
The

The Reaſonableneſs of which, can be denied by no diſintereſted Perſons of Conſideration, ſince the above annual Sum, is to be applied, in making Good the Damages, which the Navigators ſuſtain, by the Company's taking ſuch very large Quantities of Water, out of the Navigable River; greatly to the impairing, and almoſt deſtroying the Navigation on the ſame.

In Caſe the Company be allowed, to take out of the Navigable River, Square Feet of Water, the Yearly Sum of will be claimed as an Equivalent, or Conſideration for the ſame, and a proportionable Sum for any Greater or Leſſer Quantity.

The Yearly Sum to be paid by the Company, is propoſed to be faithfully applied by Commiſſioners of Sewers, or Truſtees, in ſcowering the Navigable River, removing *Shelves*, *Sandbanks*, and other Nuſances; and alſo in erecting *Locks*, *Wears*, or *Turnpikes*, to ſupply the Loſs of that Water, of the Publick Navigation, which is diverted into the *New River*. And then by Means of ſuch proper Expedients, the River LEA, whilſt it does plentifully ſupply the City of *London* with Water, may at the ſame Time, as plentifully ſupply that City, with Materials for *Bread*, &c. And by this Application of the above yearly Sum, the *Land-Owners*, and *Barge-maſters*, who have no Ways been contributory to the impairing, or damaging the Navigation, will be excuſed of the Burthen, which otherwiſe muſt unreaſonably fall on them.

The Navigators, are fully apprized, That whatever Agreement they make with the Company, will need to be confirmed by Act of Parliament, which is intended to be applied for; and by which the whole Affair is to be ſettled, in the manner above propoſed, or in ſuch other Way or Method, as to the Legiſlature ſhall ſeem Meet.

The Offer of the above Quantity of Water, out of the ſaid Navigation, on the above Terms, being made by way of Accommodating the Company, They are therefore deſired, either to Comply with, or Reject the above Offer, by the Fifteenth Day of *October*, 1732.

A Copy of the above Proposals, *was delivered to the* Deputy-Governor, *and a* Committee *of the* New River *Company*, *at the* Bull Inn, *at* Ware, *on* Tueſday, *the* 19*th* Day *of* September, 1732.